

AMENDED IN SENATE APRIL 14, 2004

SENATE BILL

No. 1319

Introduced by Senators Burton and Alpert
(Coauthors: Assembly Members Kehoe and Pavley)

February 17, 2004

An act to add Division 26.5 (commencing with Section 35500) to the Public Resources Code, relating to natural resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 1319, as amended, Burton. Natural resources: ocean protection.

Existing law generally regulates activities relating to coastal and ocean resources.

This bill would create the California Ocean Protection Act, which would include various legislative findings and declarations related to coastal and ocean resources. The bill would define terms.

The bill would establish the Ocean Protection Council in state government, consisting of the Secretary of the Resources Agency, the Secretary for Environmental Protection, and the Chair of the State Lands Commission. The bill would require 3 Members of the Senate, appointed by the Senate Committee on Rules, and 3 Members of the Assembly, appointed by the Speaker of the Assembly, to meet with the council and participate in its activities to the extent that participation is not incompatible with their positions as Members of the Legislature.

The bill would require the council to coordinate activities of state agencies, that are related to the protection *and conservation* of coastal waters and ocean ecosystems, to improve the effectiveness of state efforts to protect ocean resources within existing fiscal limitations, *to establish policies and procedures to coordinate the collection and*

sharing of scientific data between agencies, and to identify and recommend to the Legislature and the Governor changes in law and policy needed to meet this goal, as specified. The bill would require the council to be consistent with the expressed legislative findings and declarations. The bill would require the council to undertake other activities related to marine managed areas, as specified.

The bill would establish the California Ocean Protection Trust Fund and authorize moneys deposited in the fund, upon appropriation by the Legislature, to be expended for activities related to coastal and ocean resources, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Division 26.5 (commencing with Section
2 35500) is added to the Public Resources Code, to read:

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4 DIVISION 26.5. CALIFORNIA OCEAN PROTECTION
5 ACT

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8 CHAPTER 1. GENERAL PROVISIONS

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10 35500. This division shall be known, and may be cited, as the
11 California Ocean Protection Act.

12 35505. The Legislature finds and declares all of the
13 following:

14 (a) California’s coastal and ocean resources are critical to the
15 state’s environmental and economic security, and integral to the
16 state’s high quality of life and culture. A healthy ocean is part of
17 the state’s legacy, and is necessary to support the state’s human and
18 wildlife populations. Each generation of Californians has an
19 obligation to be good stewards of the ocean, to pass the legacy on
20 to their children.

21 (b) Ocean resources contribute more than seventeen billion
22 three hundred million dollars (\$17,300,000,000) to the state’s
23 economy, generating 370,000 jobs, according to a 1997 Resources
24 Agency study, of which nine billion nine hundred million dollars
25 (\$9,900,000,000) is generated from coastal tourism spending.



1 Californians benefit from the economic, heritage, existence, and
2 other intrinsic values of the ocean, including but not limited to,
3 wildlife watching, recreational and commercial fishing, *education*
4 *and research*, biodiversity, and other aesthetic, recreational,
5 environmental, and economic values.

6 (c) The ocean is a public trust. Every public agency and every
7 Californian has a responsibility to protect the state’s coastal and
8 ocean resources. Californians have entrusted state government
9 with the responsible stewardship of that public trust resource.

10 (d) The decline in our ocean’s health is well documented.
11 Reports such as the 1997 Resources Agency report, “California’s
12 Ocean Resources: An Agenda for the Future,” and the 2003 Pew
13 Oceans Commission report, “America’s Living Oceans: Charting
14 a Course for Sea Change,” document degraded ocean values, due
15 to coastal and ocean development, onshore and offshore pollution,
16 certain fishing and aquaculture practices, and invasive species,
17 among other things.

18 (e) The preservation of the state’s ocean resources depends on
19 healthy, productive, and resilient ocean ecosystems. To ensure the
20 protection of the public trust, the governance of ocean resources
21 should be guided by principles of sustainability, ecosystem health,
22 precaution, recognition of the interconnectedness between land
23 and ocean, decisions informed by good science and improved
24 understanding of coastal and ocean ecosystems, and public
25 participation in decisionmaking.

26 (f) Good governance and stewardship of ocean resources
27 necessitate more efficient and effective use of public funds.

28 (g) Many different *federal*, state and local agencies are
29 responsible for governing or protecting different aspects or values
30 of the state’s coastal and ocean resources. There is a critical need
31 for these public agencies to work together in a more coordinated
32 manner to ensure effective, comprehensive, and consistent
33 protection *and conservation* of the ocean within the state’s
34 jurisdiction.

35 (h) The state needs to coordinate governance and stewardship
36 of the state’s oceans, to identify priorities, bridge existing gaps,
37 and ensure effective and scientifically sound approaches to
38 protecting *and conserving* the most important ocean resources.

39 35510. The Legislature finds and declares all of the
40 following:



1 (a) The coastal waters offshore of the state and the ocean
2 ecosystems associated with those waters are natural resources that
3 the state holds in trust for the people of the state.

4 (b) It is the state’s policy that all public agencies shall
5 administer the laws associated with ~~protection~~ *the protection and*
6 *conservation* of coastal waters in accordance with the following
7 principles:

8 (1) ~~All state~~ *State* decisions affecting coastal waters and the
9 ocean environment shall be designed and implemented to conserve
10 the health and diversity of ocean life and ecosystems, allow and
11 encourage ~~only~~ those activities and uses that are sustainable, and
12 recognize the importance of ~~nonconsumptive~~ aesthetic,
13 educational, and recreational uses.

14 (2) The ocean ecosystem is inextricably linked to activities on
15 land and all public agencies should consider the impact of
16 activities on land that may adversely affect the health of the coastal
17 and ocean environment.

18 (3) It is the state’s policy to incorporate ecosystem perspectives
19 into the management of coastal and ocean resources, using sound
20 science, with a priority of protecting, *conserving*, and restoring
21 coastal and ocean ecosystems, rather than managing on a single
22 species or single resource basis.

23 (4) A goal of all state actions shall be to improve monitoring
24 and data gathering, and advance scientific understanding, to
25 continually improve efforts to protect, *conserve*, restore, and
26 manage coastal waters and ocean ecosystems.

27 (5) State and local actions that affect ocean waters or coastal or
28 ocean resources should be conducted in a manner consistent with
29 protection, *conservation*, and maintenance of healthy coastal and
30 ocean ecosystems and restoration of degraded ocean ecosystems.
31 State and local agencies should refrain from actions that would
32 cause harm to ocean and coastal ecosystems or impair the
33 restoration of coastal and ocean ecosystems.

34 35515. The Legislature finds and declares that the purpose of
35 this division is to ~~reorganize and reorient~~ *integrate and coordinate*
36 the state’s laws and institutions responsible for protecting *and*
37 *conserving* ocean resources, including coastal waters and ocean
38 ecosystems, to accomplish all of the following objectives:



1 (a) Provide a set of guiding principles for all state agencies to
2 follow, *consistent with existing law*, in protecting the state’s
3 coastal and ocean resources.

4 ~~(b) Strengthen and streamline state regulatory laws related to~~
5 ~~coastal and ocean ecosystem health, and encourage~~ *Encourage*
6 cooperative management with federal agencies, to protect *and*
7 *conserve* representative coastal and ocean habitats and the
8 ecological processes that support those habitats.

9 (c) Improve coordination and management of state efforts to
10 protect *and conserve* ocean ecosystems without adding to
11 bureaucracy or imposing new costs by establishing a cabinet level
12 oversight body responsible for identifying more efficient methods
13 of protecting the ocean at less cost to taxpayers.

14 (d) Use California’s private and charitable resources more
15 effectively in developing ocean protection *and conservation*
16 strategies.

17 (e) Redirect some existing state bond funds to address the most
18 critical needs in coastal and ocean resources protection *and*
19 *conservation*.

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CHAPTER 2. DEFINITIONS

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23 35550. Unless the context requires otherwise, the following
24 definitions govern this division:

25 (a) “Council” means the Ocean Protection Council established
26 pursuant to Section 35600.

27 (b) “Fund” means the California Ocean Protection Trust Fund
28 established pursuant to Section 35650.

29 (c) “Marine managed area” means an area designated pursuant
30 to this act or the Marine Managed Areas Improvement Act
31 (Chapter 7 (commencing with Section 36600) of Division 27).

32 (d) “Public agency” means a city, county, city and county,
33 district, or the state or any agency or department of the state.

34 (e) “Sustainable” and ”sustainability” mean both of the
35 following:

36 (1) Continuous replacement of resources, taking into account
37 fluctuations in abundance and environmental variability.

38 (2) Securing the fullest possible range of present and long-term
39 economic, social, and ecological benefits, while maintaining
40 biological diversity.



CHAPTER 3. OCEAN PROTECTION COUNCIL

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35600. The Ocean Protection Council is established in state government. The council consists of the Secretary of the Resources Agency, the Secretary for Environmental Protection, and the Chair of the State Lands Commission.

35605. The members of the council shall elect the chair of the council.

35610. Three Members of the Senate, appointed by the Senate Committee on Rules, and three Members of the Assembly, appointed by the Speaker of the Assembly, shall meet with the council and participate in its activities to the extent that participation is not incompatible with their respective positions as Members of the Legislature.

35615. The council shall do all of the following:

(a) (1) Coordinate activities of state agencies, that are related to the protection *and conservation* of coastal waters and ocean ecosystems, to improve the effectiveness of state efforts to protect ocean resources within existing fiscal limitations.

(2) *Establish policies and procedures to coordinate the collection and sharing of scientific data between agencies.*

(3) Identify and recommend to the Legislature changes in law needed to achieve this goal.

(b) (1) Identify changes in federal law and policy necessary to achieve the goals of this division and to improve protection, *conservation*, and restoration of the ocean ecosystem in federal and state waters off the state’s coast.

(2) Recommend to the Governor and the Legislature actions the state should take to encourage those changes in federal law and policy.

(c) Be consistent with Sections 35500, 35510, and 35515.

~~35620. (a) The council shall oversee the State Interagency Coordinating Committee established pursuant to Section 36800 and the scientific review panel established pursuant to Section 36900. *The council may review and recommend proposals to the State Interagency Coordinating Committee, and to designating entities, to further the purposes of this division.*~~

~~(b) The council may accept proposals to designate a ocean managed area, as defined in subdivision (d) of Section 36602, and~~



1 act on the proposals using the procedures established for the State
2 Interagency Coordinating Committee.

3 ~~35625. As a pilot project to improve protection of the state's~~
4 ~~ocean resources at less cost to taxpayers, the council shall solicit~~
5 ~~one or more proposals for the designation of a marine managed~~
6 ~~area. To be eligible for submission to the council under the pilot~~
7 ~~project, a proposal shall be developed using nonstate funds and~~
8 ~~with the participation of interested parties. A proposal shall~~
9 ~~identify restrictions on polluting and ocean development activities~~
10 ~~necessary to protect the resources of the proposed marine managed~~
11 ~~area. The council shall give preference to proposals with the~~
12 ~~primary goal of ensuring the sustainability of ocean resources and~~
13 ~~ecosystems within large areas. The council shall review proposals~~
14 ~~submitted to it under the pilot program, and may adopt a proposed~~
15 ~~designation of a marine managed area, in whole or in part, or may~~
16 ~~refer the proposal to an entity that designates marine managed~~
17 ~~areas pursuant to Division 27 (commencing with Section 36000).~~
18 ~~The council shall review proposals for consistency with the master~~
19 ~~plan adopted pursuant to Chapter 10.5 (commencing with Section~~
20 ~~2850) of Division 3 of the Fish and Game Code.~~

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22 CHAPTER 4. CALIFORNIA OCEAN PROTECTION TRUST FUND

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24 35650. (a) The California Ocean Protection Trust Fund is
25 established in the State Treasury.

26 (b) Moneys deposited in the fund may be expended, upon
27 appropriation by the Legislature, for both of the following:

28 (1) Projects and activities authorized by the council consistent
29 with Chapter 3.

30 (2) Upon authorization by the council, for grants *to public*
31 *agencies or nonprofit agencies or nonprofit corporations*, or loans
32 for, or direct expenditures on, projects or activities that do one or
33 more of the following:

34 (A) Eliminate or reduce threats to coastal and ocean
35 ecosystems, habitats, and species.

36 ~~(B) Create incentives for sustainable fisheries, including~~
37 ~~revolving loan programs, fishing capacity reduction, and~~
38 ~~socioeconomic transition projects.~~

39 *(B) Foster sustainable fisheries, including development of*
40 *more selective fishing gear, collaborative research and*



1 *demonstration projects between persons who fish commercially*
2 *and scientists, promotion of value-added fisheries to offset*
3 *economic losses attributable to reduced fishing opportunities, and*
4 *the creation of revolving loan programs for the purpose of*
5 *implementing sustainable fishery products.*

6 (C) Improve coastal water quality.

7 (D) Allow for increased public access to, and enjoyment of,
8 ocean and coastal resources, consistent with sustainable,
9 long-term protection *and conservation* of those resources.

10 (E) Improve management, *conservation*, and protection of
11 coastal waters and ocean ecosystems.

12 (G) Provide monitoring and scientific data to improve state
13 efforts to protect *and conserve* ocean resources.

14 (H) Protect, *conserve*, and restore coastal waters and ocean
15 ecosystems, including any of the following:

16 (i) Acquisition, installation, and initiation of monitoring and
17 enforcement systems.

18 ~~(ii) Acquisition of rights in coastal and submerged lands,~~
19 ~~vessels, equipment, licenses, harvest rights, permits, and other~~
20 ~~rights and property, to reduce threats to ocean ecosystems and~~
21 ~~resources.~~

22 ~~(iii) Mitigation costs related to the protection of coastal and~~
23 ~~ocean resources.~~

24 (ii) *Acquisition from willing sellers of vessels, equipment,*
25 *licenses, harvest rights, permits, and other rights and property, to*
26 *reduce threats to ocean ecosystems and resources.*

